

Addressing the Co-occurrence of Domestic Violence and Substance Abuse

Lessons From Problem-Solving Courts

In January 2004 the Judicial Council, recognizing the high co-occurrence of substance abuse and domestic violence, hosted a teleconference roundtable discussion on developing a coordinated approach to these issues in both court operations and the provision of services to substance abusers and batterers. Several California judges, along with legal practitioners, treatment professionals, and academics, discussed existing problems in the current approach to the two issues, identified obstacles to change, and debated best practices for a more comprehensive and coherent approach to these issues. Participants were selected based on diversity of experience, academic and legal expertise in the area, and judicial leadership. The objective of the roundtable was to elicit a focused discussion on the mounting evidence of associations between domestic violence and substance abuse and the intricacies of addressing concurrent treatment from a programmatic, legal, and philosophical point of view. Comments of roundtable participants are quoted throughout this article.¹

Crimes related to both substance abuse and domestic violence place an enormous burden on society. Research indicates a strong and well-documented correlation between these two social problems, with estimated rates of co-occurrence ranging from 40 to 92 percent.² Although these issues are correlated, they arise in different legal and social contexts and have provoked distinct criminal justice approaches and service interventions. Yet the criminal justice system rarely addresses these problems concurrently, despite their high rate of co-occurrence among the defendant population. The authors argue that the extant data require that the criminal justice system and community-based service providers develop effective interventions that recognize the coexistence of substance abuse and domestic violence while maintaining appropriate distinctions in theory and approach. The problem-solving court may offer an effective model for approaching this challenge.

In recent years, jurisdictions throughout the United States have established specialized calendars to address just such issues as substance abuse and domestic violence through the application of intensive judicial oversight and services provided by community-based organizations. These innovative courts, often called “problem-solving courts,” emphasize partnerships

LISA LIGHTMAN, M.A.

Center for Families, Children & the Courts

FRANCINE BYRNE, M.A.

Center for Families, Children & the Courts

Crimes related to both substance abuse and domestic violence place an enormous burden on society. While courts throughout the country have established innovative problem-solving approaches designed to address these issues, the criminal justice system rarely applies them concurrently. This article explores the challenges and potential benefits of addressing the co-occurrence of substance abuse and domestic violence by means of the problem-solving-court model. The authors include examples of best practices for developing similar programs in other courts.

The authors would like to acknowledge and thank Professor Emily Sack for her valuable contributions to this article. ■

among courts, attorneys, and community agencies to coordinate interventions and ensure defendant accountability. While evidence suggests that problem-solving courts have successfully reduced recidivism, the tested models have generally focused on a single specialized area, such as substance abuse or domestic violence. But the close judicial monitoring and strong partnerships with service providers that define such specialized courts offer a promising opportunity to effectively address the co-occurrence of substance abuse and domestic violence.

This article first explores the challenges and potential benefits of addressing the co-occurrence of substance abuse and domestic violence both in the justice system and among service providers, and then investigates possible methods for coordinating interventions by courts and service programs. Because much of the philosophy and practice in these two areas has been in tension, coordination among courts and services is likely to be complex. Any successful coordination must respect the distinct concerns that substance abuse and domestic violence present. This article does not propose a specific model of problem-solving court to address the two issues; rather, it invites dialogue on issues of co-occurrence and potential responses to it. Increasing understanding of the co-occurrence of domestic violence and substance abuse will lead to heightened defendant accountability, enhance the health and safety of both defendants and victims, and improve public confidence in our justice system.

THE CORRELATION BETWEEN SUBSTANCE ABUSE AND DOMESTIC VIOLENCE

High rates of co-occurring substance use and domestic violence are well established. A recent study found that fully 92 percent of domestic violence perpetrators had used alcohol or drugs on the day of a domestic violence assault, and 72 percent had a record of prior arrests related to substance use.³ Other studies have shown that between one-fourth and one-half of men who commit acts of domestic violence are addicted

to alcohol or other drugs.⁴ Research also shows that alcohol and drug abuse are related to an increased risk of violent death in the home.⁵ Early onset of drug- and alcohol-related problems is strongly correlated to domestic violence.⁶ In addition, alcohol and drug use has been associated with greater severity of injuries and increased lethality rates when present in conjunction with domestic violence.⁷ Although neither alcohol use nor drug use has, by itself, been proven to cause domestic violence, and though the cessation of alcohol or substance abuse is no guarantee that batterers will change their abusive behavior, research does suggest that, overall, domestic violence is reduced through the treatment of alcohol abuse.⁸

Despite this research, the criminal justice system and community-based services do not routinely recognize or contend with the frequent co-occurrence of these problems in cases that may present solely as domestic violence or as substance abuse. Domestic violence convictions that do not result in incarceration generally lead to batterers' intervention programs, with substance abuse treatment being ordered only for offenders with obvious substance addiction issues.⁹ Similarly, battering behavior in defendants charged with substance abuse is rarely identified or acted on.¹⁰ Roundtable participants confirmed that the current approach did not address both issues and stated that the courts and service providers needed to develop a coordinated approach. Judge Susan Finlay, a domestic violence court judge in San Diego County who formerly presided over a drug court, said that in the 26 batterers' intervention programs used by her court, the average time spent on substance abuse was 8 hours out of the 104 hours mandated for defendants. She commented that the failure to address substance abuse problems among domestic violence defendants was "totally self-defeating because the people are not going to change their behavior unless they have dealt also with their addiction." Moreover, failure to address domestic violence can affect recovery from drug addiction.¹¹ Judge Finlay referred to research indicating that "unless you address both of the issues—substance abuse as well as violent behaviors—neither gets any better. In fact both can get

worse.” She noted that in “[e]very single failure that I look at, with rare exception, on the probation revocation calendar, a person who cannot do the domestic violence program, it’s because of alcohol or other drug issues.”

Because of the different causes and behaviors associated with domestic violence and substance abuse, a single type of service intervention will never be adequate to address both problems. As Patti Bland, statewide training coordinator for the Alaska Network on Domestic Violence and Sexual Assault, explained, “Substance abuse treatment can help make it possible for batterers to recover from alcohol and other drug dependence but does not adequately address domestic violence and cannot be substituted for batterer accountability or intervention programs designed to stop violence.” The question then becomes how best to approach the coexistence of these issues. Specialized problem-solving courts could provide the judicial attention and service coordination necessary to address the co-occurrence of substance abuse and domestic violence.

THE EMERGENCE OF PROBLEM-SOLVING COURTS: DRUG COURT AND DOMESTIC VIOLENCE COURT MODELS

In recent years, policymakers, courts, and practitioners have supported the development of problem-solving courts as a response to increasing caseloads and the growing frustration of “business-as-usual” case processing.¹² These innovative court models evolved from a recognition that the legal system, in its inability to stem the tide of drug usage or stop the violence, is “doomed if it remains static.”¹³ As New York State Chief Judge Judith S. Kaye has written, “In many of today’s cases, the traditional approach yields unsatisfying results. The addict arrested for drug dealing is adjudicated, does time, then goes right back to dealing on the street. The battered wife obtains a protective order, goes home and is beaten again. Every legal right of the litigants is protected, all procedures followed, yet we aren’t making a dent in the underlying problem.”¹⁴

Instead of simply moving cases through the system, problem-solving courts focus on strong collaborations with service providers and legal partners to address the underlying issues in these cases. Judicial leadership is critical to promote defendant compliance and to ensure effective relationships among the court and its partners, including prosecutors, defense attorneys, law enforcement and probation officials, and service providers in a variety of community-based agencies. Judicial oversight appears to have significant impact in motivating behavioral change,¹⁵ thereby improving outcomes for victims and defendants while increasing public safety. The positive results of specialized courts have resulted in public and political recognition of their efficacy and an increase in financial support to the courts from executive agencies, legislators, and county governments. As we enter the second decade of problem-solving courts,¹⁶ and as our knowledge and sophistication about the complexities of comprehensive interventions grow, the justice system will continue to refine and expand these innovative initiatives. Drug courts and domestic violence courts are well positioned to consider new methods that advance the coordination of substance abuse and domestic violence interventions.¹⁷

The first problem-solving court, a drug court, opened in Miami in 1989 to cope with the proliferation of drug offenders during the height of the crack cocaine epidemic.¹⁸ Before the development of the drug court, a typical offender charged with a low-level nonviolent drug offense would receive a jail or probation sentence with no linkage to substance abuse treatment and would quickly cycle through the Dade County justice system. It was likely that a drug-addicted offender would repeat the offense, so the process would recycle, with no attempt made to address the underlying substance abuse.

One important feature of the drug court model is that both court and case management personnel quickly assess the type and severity of addiction of each defendant and provide opportunities for placement in appropriate substance abuse treatment with providers maintaining close contact with the

court. Structures for pleas, sanctions, and sentences have been worked out beforehand, so that a defendant can plead quickly and enter treatment soon after arrest, with the understanding that failure to complete the program will result in criminal sentencing. The court, prosecutors, and defense attorneys, together with court case management staff, probation officers, and service providers, operate as a team to focus on the defendant's successful rehabilitation from substance abuse, which will result in reduction or dismissal of the charges. The judge closely monitors the defendant's progress by requiring frequent status reports from service partners on program participation and drug test results and by mandating frequent court appearances by the defendant. The judge imposes immediate consequences for the defendant's noncompliance with the court's orders through a series of graduated sanctions and recognizes the defendant's success through court-mandated rewards.

Although every drug court has unique characteristics, most adhere to uniform principles based on 10 key components defined by the U.S. Department of Justice's Office of Drug Court Programs.¹⁹ The use of judicial authority, early assessment and access to treatment, and consistent monitoring of defendants has proven effective in addressing substance abuse and reducing recidivism.²⁰ The encouraging results of the adult criminal drug court model have led to its widespread replication and its adaptation to juvenile and family court settings.²¹ By January 2005, some 16 years after that groundbreaking drug court opened in Miami, the total number of adult, juvenile, and family drug courts had reached 1,262 nationwide.²²

Domestic violence courts developed somewhat later than drug courts and were rooted in dramatic changes in domestic violence policy in other parts of the justice system throughout the 1980s and 1990s. Through significant efforts by the battered-women's movement, the justice system began to focus attention on domestic violence. Ensuring access to civil protection orders for battered women was an early focus of the movement and remains an ongoing pri-

ority. Advocates for battered women also successfully worked for changes in criminal justice policy, such as mandatory arrests on probable cause and more aggressive prosecution policies in domestic violence cases. The resulting rise in domestic violence case-loads and increased attention by law enforcement and prosecutors led to calls for specialized domestic violence courts, supported by specialized court and partner staff, to ensure educated and consistent judicial decision making.²³ The structure of these domestic violence courts was often influenced by elements of the existing drug court model, including strong judicial involvement and monitoring as well as close collaboration with multiple partners from the court and community.

Unlike drug courts, however, domestic violence courts handle cases with targeted victims, and the defendants are, by definition, alleged to be violent offenders. As a result, the primary goals of domestic violence courts have always been to ensure victim safety and defendant accountability.²⁴ Many services linked to the domestic violence court focus on victims' needs, including victim advocacy, safety planning, access to shelter, and children's counseling, all of which are voluntary. Such courts also mandate batterers' intervention programs for defendants, but this is part of the effort to increase defendant accountability and these programs are not substitutes for the imposition of criminal sentences. Some states require convicted domestic violence defendants to attend batterers' programs with specific components. In California, for example, convicted batterers must attend a state-approved, 52-week intervention program.²⁵

Defendants ordered to participate in batterers' intervention programs and other services return to court regularly for compliance reviews before the domestic violence judge, and failures to comply with court orders result in swiftly imposed sanctions. Such sanctions might include additional group sessions, community service, referral back to court for specific legal sanctions, or even termination from the group. Service providers, probation, and other agencies working with defendants coordinate closely with court personnel and furnish regular status reports.

Victim advocates link with domestic violence victims early in the cases to offer services and serve as liaisons with the criminal justice system.²⁶ Intensive judicial monitoring, partnerships with court- and community-based partners, and voluntary services for victims are all focused on keeping victims safe and holding batterers accountable for their crimes.²⁷

Unlike drug courts, domestic violence court models have developed for both the civil and criminal justice systems. Civil domestic violence courts usually focus on protective-order calendars, but some also address custody and visitation issues.²⁸ Criminal domestic violence courts may focus solely on domestic violence charges or may incorporate additional charges facing the defendant. A recent development is an integrated domestic violence court model that addresses both criminal domestic violence charges and related civil issues, including civil protection orders, custody, visitation, and divorce, and that may handle cases involving other family members as well as the defendant.²⁹ Each type of drug court and domestic violence court model involves some distinctions in the exercise of judicial authority and operation of court proceedings. This article focuses on the criminal drug court and criminal domestic violence court models, where coordination of substance abuse and domestic violence interventions may be at the same time the most urgently needed and the most difficult to accomplish.

COMMON ELEMENTS IN DRUG COURTS AND DOMESTIC VIOLENCE COURTS

Drug courts and domestic violence courts have different roots, goals, and challenges. Still, both models have achieved some success by directing the attention of judges, court professionals, and community partners to these issues. Because of these courts' specialized caseloads, a substantial proportion of their defendant populations are involved in both substance abuse and domestic violence. Their dedicated caseloads give drug courts and domestic violence courts strong incentive to investigate methods for dealing with the

co-occurrence of these problems, while their design allows them the potential for instituting a coordinated approach to address both issues. As momentum toward dealing with co-occurring problems in a coordinated manner increases, it becomes essential for the courts and their community partners to fully understand the common elements of drug courts and domestic violence courts.

JUDICIAL LEADERSHIP

Drug courts and domestic violence courts each require strong judicial leadership. The judge's authority is pivotal in ensuring defendant accountability in both courts; defendants return to court frequently for compliance monitoring and are subject to swift consequences for any failures. In addition, judges use their authority to foster communication among partners, seek additional court resources, or promote education within the court system and among community members. A problem-solving approach to domestic violence and substance abuse "posits several new roles for judges: active case manager, creative administrator and community leader."³⁰

DEFENDANT ACCOUNTABILITY

Drug courts and domestic violence courts share a common focus on defendant accountability, which is strengthened when the court strictly monitors defendants' compliance with court orders. In drug courts, this accountability can lead to successful recovery from drug abuse, while in domestic violence courts it can help keep domestic violence victims safe. But when defendants fail to comply with judicially monitored substance abuse treatment or batterers' intervention programs, they face immediate sanctions, including increased frequency of court appearances, community service obligations, or even incarceration.

COLLABORATION AMONG JUSTICE SYSTEM PARTNERS

Both drug courts and domestic violence courts emphasize ongoing collaboration among diverse partners, including judges, court staff, prosecutors, defense attorneys, and law enforcement person-

nel, along with probation, treatment, and service professionals. The particular composition of the collaborations in each court differs; for example, victim advocates are prominent in any domestic violence court partnership, though they are not likely to be involved in typical drug court collaboration. The relationship among these partners also varies. Defense attorneys often eagerly participate in drug courts that can offer their clients beneficial case dispositions as well as access to treatment. In contrast, the defense bar is less likely to enthusiastically support specialized domestic violence courts, because they typically promote greater defendant monitoring and accountability than do other courts.

Yet in both models collaboration is critical, and the two feature frequent partnership meetings to coordinate procedures, share information when appropriate, and handle operational challenges. Both drug courts and domestic violence courts dedicate court and partner personnel to the court so that they can promote a consistent and knowledgeable response to cases. In addition, each of the court models incorporates a case manager or resource coordinator who acts as a liaison between the community-based partners and the court. This person ensures that defendants enter appropriate programs; that these programs provide up-to-date, accurate, and comprehensive information on defendants' participation; and that community-based providers receive information about court actions and defendant status.

STAFF TRAINING AND EDUCATION

Drug and domestic violence courts' emphasis on continuing education and training for all partners enhances the collaboration necessary to ensure the effectiveness of both these court models. It is critical for the multiple system players involved in each specialized court to receive ongoing training on relevant case issues. This training, as well as the culture of continuing education, is an accepted component of both domestic violence and drug courts. The training gives court and partner staff the tools to identify promising practices to improve court and program operations.

PROGRAM AND COURT ACCOUNTABILITY

Because drug and domestic violence courts emphasize coordination with service providers and rely on providers' information to monitor defendant compliance, the quality of program operations and reporting is critical to these courts' success. Therefore, both models closely monitor not only defendant compliance but also the performance of the programs that the court utilizes. This focus helps ensure that court-mandated programs employ consistent procedures, provide high-quality services, and transfer reliable, up-to-date information to the court.

Specialized courts' focus on accountability goes beyond individual program quality, however. These court models are innovations that must define clear guidelines for measuring success, by identifying and tracking appropriate outcome measures that are both qualitative and quantitative. As Chief Judge Kaye has written, "[O]utcomes—not just process and precedents—matter."³¹ Both court-focused and program-focused outcome measures are critical to the long-term success of the two court models. Although drug courts and domestic violence courts face quite different issues in defining and tracking outcome measures, most specialized court models, unlike traditional courts, require and train court and partner staff to document accomplishments along with failures. This shared culture of accountability in courts and programs alike is key to problem-solving courts' achieving success.

Specialized drug courts and domestic violence courts share certain key principles that could serve as a foundation for addressing substance abuse and domestic violence in a coordinated fashion. Judicial leadership, defendant accountability, collaboration with community-based partners, intensive training, and accountability of programs and court operations—all make these specialized courts well situated to focus on both issues in a responsible manner that would improve outcomes while also respecting the important differences in the problems of substance abuse and domestic violence.

CHALLENGES IN DEVELOPING A COORDINATED RESPONSE TO SUBSTANCE ABUSE AND DOMESTIC VIOLENCE

Despite its potential for developing a coordinated response to substance abuse and domestic violence, the specialized-court approach faces serious challenges. Significant differences exist in drug and domestic violence courts' philosophies, goals, case-processing styles, and program operations that make responsible coordination difficult and raise the question whether such coordination is preferable or even possible. But it does not seem that the courts or their service provider partners can continue to ignore the high co-occurrence of substance abuse and domestic violence if they hope to reduce defendant recidivism and enhance victim safety in the long term. This section focuses on the different ways in which courts and service providers address the two problems, with special attention to identifying areas of conflict in methodology. Progress in developing an effective method of intervening in cases where both problems exist demands a deep understanding of both approaches.

DIFFERENCES IN PHILOSOPHY AND PRIORITIES

Fundamental differences can be noted in the philosophy and goals of drug courts and domestic violence courts that reflect the distinct causes and dynamics of substance abuse and domestic violence as well as appropriate interventions for them. Drug courts generally rely on a medical model of treatment—approaching the addiction as a disease—and though they require accountability, they operate on the assumption that relapse is a natural part of recovery. Drug courts typically handle only non-violent offenders and focus on their rehabilitation, an achievable goal because successful methods of promoting recovery from substance abuse are well established. Defendants voluntarily opt to have their cases heard in drug court by agreeing to accept both a plea and the conditions of treatment that the court

and clinical staff have identified as necessary for successful completion after an initial assessment. Once the defendant is participating in drug court, the court, the prosecutor, and the defense attorney are all focused on the defendant's success, so they adopt a "team approach" to handling issues that arise. Drug courts promote a supportive atmosphere where participants are applauded and rewarded for good behavior and progress in treatment.

In contrast, domestic violence courts focus on violent perpetrators who have hurt their targeted victims. These courts see domestic violence not as an illness but as a learned and voluntary behavior, making an illness and treatment model inapplicable. "Relapse" in domestic violence is not tolerated. Moreover, unlike treatment programs for substance abuse, batterers' intervention programs are largely untested, and no approach has clearly proven successful in reducing long-term battering behavior. For practitioners familiar with the dynamics of domestic violence, the concepts of rehabilitation and being powerless over addiction, familiar ideas in drug courts, are inappropriate in domestic violence courts.

Instead, the highest priority of domestic violence courts is victim safety, and therefore the court focuses on procedures and outcomes that will promote it. The court emphasizes victim services, which are voluntary and centered on assisting the victim and the children to achieve safety both in the short and long term. These services can include links to shelter and food, counseling, safety planning, health care, and job training. For the defendant, the court's focus is on accountability and punishment rather than rehabilitation. The court routinely imposes criminal sentences, including incarceration and intensive probation supervision.

While community partnerships are important in a domestic violence court, the court maintains the traditional adversarial process and does not rely on the "team approach" used in drug court. Defendants do not choose whether to participate in domestic violence court. All defendants who are charged with certain defined crimes or who are in a close relationship with the victim are prescreened to assess their

appropriateness for the specialized court. The court's intensive monitoring and coordination with other agencies are distinctive to the domestic violence court, but other features of the court's operations, such as discovery procedures, hearings, and the plea process, follow traditional case processing, though they are likely to be more efficient than in a typical court. Most domestic violence courts utilize batterers' programs and do not view successful completion as a sign that a defendant will not reoffend. Further, domestic violence charges are not dismissed on program completion. Unlike the supportive atmosphere and celebratory tone of drug courts, domestic violence courts retain the adversarial atmosphere of a criminal court and do not reward defendants for not reoffending, since that behavior is considered a minimum expectation.

Given these differences, court personnel and service providers in these fields often view their counterparts with suspicion, as they use approaches that seem alien to their own training and values. Drug court personnel and substance abuse treatment providers alike may be uncomfortable around violent offenders. In fact, federal funding guidelines for drug courts prohibit offenders charged with a violent crime from participation in drug courts.³² Because drug courts focus on rehabilitation and support for defendants, they may find it difficult to develop an effective approach that addresses and penalizes the violence shown by defendants who are both substance abusers and batterers. Such courts may view the approach used by domestic violence practitioners as overly punitive and unlikely to create the supportive environment necessary for recovery from drug addiction.

Conversely, domestic violence court personnel and service providers may be concerned that substance abuse treatment programs tend to relieve the defendant of responsibility for his or her abusive actions, and that the risks to victims associated with domestic violence are ignored if drug treatment takes precedence. Domestic violence court personnel and batterers' program providers may also find it difficult to address substance addiction in batterers when they

must simultaneously treat the addiction and provide support for recovery while maintaining a constant focus on victim safety and defendant accountability.

Roundtable participant Emily Sack, a law professor who was involved in the development of domestic violence courts in New York, noted that practitioners in domestic violence courts are concerned that addressing substance abuse in this setting could change the courtroom tone and jeopardize its effectiveness with domestic violence defendants: "[T]here's a real resistance to having the...nonadversarial [atmosphere], applauding for substance abuse success in treatment the way drug courts do it." She asked whether there might be a way to determine which issue should be the predominant focus of the court, so that the other problem could be addressed without undermining the tone and atmosphere most appropriate for the case. Judge Pamela Iles, who was presiding over a domestic violence calendar in Orange County, California, noted that if the defendant were in court to answer a domestic violence charge, the court could indeed address the substance abuse while adhering to domestic violence court procedure and tone: "I don't applaud. I don't run a drug court here. People are sent to alcohol or drug treatment as part of their conditions of probation. This is not a deferred entry of judgment. This isn't a situation where they're getting approval for doing what they should've done in the first place. Drug and alcohol abuse in my court is often used as an excuse for the violence, and it is neither an excuse nor a license to commit violence. So I don't count that as a reason to reduce accountability or violence."

A deep philosophical divide separates the approaches to substance abuse and domestic violence that dictate the distinct goals and practices of drug courts and domestic violence courts, as well as their varying service interventions. It may never be possible, or even appropriate, to attempt to merge these practices into a single approach to both issues. But it may be feasible to identify the primary issue before the court and maintain the procedures suited to that problem while also recognizing and addressing other existing

problems. The development of such a coordinated approach to the co-occurrence of substance abuse and domestic violence would be a sensitive and complex project, yet it deserves further consideration.

DISTINCT TARGET POPULATIONS AND CHALLENGES TO COMPREHENSIVE ASSESSMENT

In drug courts, most programs limit participation to low-level, nonviolent offenders with demonstrated problems of substance abuse. Defendants seeking entry to the drug court undergo screening by the court, including an assessment of whether and how they abuse substances like drugs or alcohol. Assessment is designed to identify the specific substances being used and the potential presence of coexisting health problems, such as mental health disorders. On the advice of a court clinical team, the judge selects from a number of modes of available treatment, such as residential or outpatient programs, and may suggest programs that focus on particular addictions as conditions for the defendant. The treatment plan is typically structured and responsive to the needs of the individual defendant. While the Addiction Severity Index (ASI) is used by most drug courts and includes domestic violence as a factor in the assessment, it is unusual for drug courts to focus on battering when sobriety is the prime motivation. As noted earlier, arrests for domestic violence crimes generally exclude offenders from drug court eligibility. The substance abuse treatment programs themselves perform additional assessments once a defendant has entered a program. Like the drug court itself, a program may identify domestic violence as an issue, but it is typically used to make a defendant ineligible for treatment mandated by the drug court and is not addressed directly.

In contrast, violent perpetrators make up the population of domestic violence courts. These defendants target their victims and attempt to exert power and control over them, making victim and child safety a primary concern. In addition, batterers can be highly manipulative and recalcitrant in adhering to court orders. Typically, the court itself does

not undertake an assessment of defendants. Because entry into the domestic violence court is involuntary and determined by objective criteria, screening for the level of domestic violence inflicted, as well as for any substance abuse or mental illness, is rarely, if ever, done at the court itself. If a convicted defendant is not incarcerated, he or she will likely be ordered to participate in a batterers' intervention program as part of the sentence. In contrast to substance abuse treatment, research on batterers' programs is not well developed, and little differentiation can be noted in the approaches to batterers' intervention. Usually a judge will not have distinct choices in batterers' programs nor will the judge know whether one or another program is likely to be a better "fit" for a particular defendant. At the batterers' program itself defendants usually undergo a brief psychosocial assessment that may indicate mental illness or substance abuse, though this assessment is typically far less developed than its counterpart in substance abuse treatment.

These different defendant populations and assessment methods would pose a challenge in any attempt by drug courts and domestic violence courts to seriously address the co-occurrence of substance abuse and domestic violence. Drug courts would need to focus on domestic violence issues within their existing population and would have to consider expanding their population to include offenders charged with violent crime. Assessment tools used by drug courts would need to address domestic violence more comprehensively. Domestic violence courts would have to explore a more comprehensive assessment for substance abuse problems, performed earlier in the process, so that substance abusers could be identified before placement in batterers' programs. The substance abuse treatment and batterers' intervention programs also would need to perform more comprehensive assessments and act on cases where substance abuse and domestic violence co-occur.

Developments such as these would require significant changes in the assessment processes now being used by both drug courts and domestic violence courts. They would also require that court and program staff

possess the necessary expertise to assess substance abuse and domestic violence. Today, however, the courts and the programs rarely have staff with expertise in both issues, and neither is well equipped to address the two issues at the same time. Roundtable participants strongly agreed both that defendants must be assessed for each issue and that currently assessments are often left to program staff who lack the expertise to adequately screen in both areas.

Larry Bennett, a researcher whose work focuses on batterer characteristics as well as the intersection of substance abuse and battering, pointed out that screening for both issues could also help identify the domestic violence defendants who were most likely to reoffend. Citing the research of Edward Gondolf, Bennett said, "Ninety percent of the reoffense[s]... [were] committed by about 20 percent of the batterers and... these people could be identified. Substance abuse, not at intake but during the program, was one of five major predictors of reoffense." Bennett stressed the importance of using substance abuse and other factors to distinguish among domestic violence offenders, something that is rarely accomplished presently. Domestic violence offenders "are sentenced as if there's such a thing as a batterer; there is not really—one is not distinguished. In other words, [the courts are] not looking at substance abuse. They're not looking at perniciousness where [perpetrators have] reoffended in the past. They're not looking at severity of offense, how bad was the injury or whatever. Looking at those kinds of things which could actually help us come up with different sentencing options, different treatments as a matter of fact for different men." Williams Downs, a researcher who has studied the linkage between women who have been victims of domestic violence and who are in substance abuse treatment programs, agreed with Bennett's conclusions: "[W]hen it comes to domestic violence, it's a crime. The person is responsible. I think we have to always keep that in mind. But when it comes to the intervention above and beyond that, I think we need to go to the next step when it comes to batterers as to what differential programs should we be developing based on assessments

of different levels of substance abuse, different levels of mental health issues."

However, Judge Iles questioned whether detailed defendant assessments were a realistic possibility in view of the limited time and resources available in many criminal courts: "I don't have a police report in my case. I get a couple of minutes of discussion with the attorneys.... And then I make an assessment based on that [of] what the sentence is going to be." Judge Mary Ann Grilli, who presides over a unified domestic violence family court calendar in the Superior Court of Santa Clara County, echoed these concerns: "I agree with the concept in general about assessment. I'm also a realist in the sense that assessment requires funding. Assessment requires somebody to do it.... [I]f you look around the state, you're going to find that those programs are very, very limited because there is no resource available to fund it."

Judge Deborah Andrews, who oversees a misdemeanor domestic violence calendar in Los Angeles County and previously presided over a drug court in Long Beach, pointed out that an additional difference in performing assessments in drug courts versus domestic violence courts is the drug courts' greater availability of comprehensive information about the defendant. This can affect the judge's ability to conduct effective assessments and develop appropriate sentences. "[W]e're often handicapped by having very little empirical information in a domestic violence court as opposed to drug court, where there's a team approach," Judge Andrews noted. "[In drug court,] [e]verybody is fairly open about what has transpired with this individual. You know a lot about their history. You know the amount of drugs that they were found with, their drugs of choice, et cetera, as opposed to a domestic violence case, where, in my court at least, it's not really a team approach. It's definitely adversarial."

The different legal dynamics in drug courts and domestic violence courts also affect the judge's ability to do effective assessments. In drug court, defendants choose to enter the court and want to participate in its program because they can obtain access to treat-

ment and other services. A further inducement is that if they succeed in treatment their criminal charges will be reduced or dismissed. For these reasons, most potential drug court defendants voluntarily and quickly submit to assessments to determine if they are eligible and to identify an appropriate treatment plan. They are then told the details of the proposed plan before having to decide whether to take a plea and submit to the drug court program.

However, comprehensive assessments made early in the domestic violence court process are likely to be resisted by defense attorneys. Defendants cannot choose whether to participate in the domestic violence court, and their charges are neither reduced nor dismissed if they complete batterers' programs or other interventions. Therefore, they are not likely to welcome more intensive assessments that may result in additional court-ordered conditions beyond the batterers' intervention program, such as participation in an intensive substance abuse treatment program. Emily Sack noted that in the more adversarial setting of a domestic violence court, this resistance to assessments could take the form of a legal challenge by the defense "if you were going to make certain determinations of bail or sentencing based on assessments with unproven, predictive qualities." Judge Andrews pointed out that because of the traditional adversarial nature of these courts, "defense counsel's commitment is not for long-term change and growth" and that defense counsel are understandably concerned about referrals to multiple programs that create additional barriers for defendants to complete probation without violations: "[T]heir worry is, '[t]his is one more way for my guy to screw up.'" Judge Iles added that the legal dynamics of sending a case out for an assessment before sentencing could result in far fewer guilty pleas in domestic violence court. This could have a dramatic effect on a criminal justice system already severely stressed, where case turnover is necessarily rapid and in which individual judges such as Judge Iles handle thousands of cases every year.

There is a consensus that comprehensive assessments that can identify both domestic violence and

substance abuse issues in the early stages of a criminal case would permit more effective interventions. But several hurdles must be overcome before such a plan could be implemented, including better training for court officials conducting dual assessments and securing appropriate resources to support the anticipated needs for additional staff. Finally, policymakers must address legal incentives to ensure that assessments do not have the unintended consequence of discouraging pleas and participation in necessary interventions.

SENTENCING ISSUES

The sentencing structures of drug courts and domestic violence courts also vary because of the courts' differing philosophies and populations. Generally, defendants must be charged with offenses that are nonviolent and low-level to be eligible for drug court, so the court accepts pleas that do not include incarceration. The court's focus is on offering defendants the opportunity to enter drug treatment and ultimately recover from addiction. A drug court typically proffers a deferred sentence. Defendants enter drug treatment with the understanding that if they successfully complete the program their charges may be dismissed or reduced. But if they are unsuccessful, they know that a criminal sentence will be imposed.

Domestic violence courts concentrate on keeping victims safe and holding defendants accountable for their behavior. Incarceration is a definite alternative for convicted defendants, depending on factors such as severity of the offense and criminal history. Defendants who are not incarcerated may still be subject to intensive probation and other methods of strict monitoring. Importantly, practitioners and experts in the field disapprove of any diversion option—for example, where batterers' intervention programs are used as a substitute for incarceration. Batterers' programs are not equivalent to substance abuse treatment, nor does the research indicate that completion of an intervention program results in "recovery" from domestic violence. Because victim safety is of prime concern, these programs should not be used either to substitute for

incarceration or other close monitoring or to excuse batterers from punishment.

Judges must understand these distinctions if they are to handle cases with domestic violence issues. As Emily Sack commented, “[Y]ou can’t just...translate that type of [drug court sentencing model] to domestic violence court. Incarceration is not a bad thing for many of these guys; and, at least from my perspective, often it’s the thing that makes them wake up. So I don’t want to...say that we should all be talking about putting them on probation and going into treatment programs immediately.” Patti Bland noted that incarceration also can be important in domestic violence cases because it provides a victim with the opportunity to establish a safer environment. Bland added that “on-site prison services addressing both domestic violence and addiction may be useful to consider.”

Larry Bennett agreed that incarceration is appropriate for some batterers but emphasized the need to differentiate among domestic violence defendants to determine appropriate sentencing options, and to consider the effect that particular sentences will have on the victim. Judge Grilli pointed out that domestic violence cases can also be particularly complex because the defendant and victim may have children together: “I think that one of the things that gets overlooked in sentencing is a very basic question, ‘Do you have children with the alleged victim?’ And I think that asking that question and really following up with knowing whether there are orders regarding the children...and really looking at how can the criminal court integrate better with family, and juvenile, and probate, to really have an appropriate response for the kids, not just the perpetrator.”

Any court that addresses issues of both substance abuse and domestic violence must develop a sentencing structure that incorporates the concerns reflected in the distinct sentencing models of drug courts and domestic violence courts as well as particular concerns arising from the dynamics of substance abuse and domestic violence. This task is daunting, and it has yet to be the focus of discussion among practitioners and policymakers.

TRAINING AND EDUCATION

Although their specialized caseload requires drug court judges to understand addiction issues and judges in domestic violence court to be informed about the dynamics of intimate partner violence, few judges are sufficiently knowledgeable about the complex web of domestic violence and substance abuse. Cases involving abuse of an intimate partner coupled with chemical addiction are far more complex than most drug court cases, because they include a threat to the victim’s safety, something not at issue in a typical drug case. Judges need to understand the potential risks to victims that the court process involves. Arrest of a perpetrator can present “a particularly high risk for continuing, even escalating violence....[B]attered women often have compelling reasons—like fear, economic dependence or affection—to feel ambivalent about cooperating with the legal process.”³³ Judges and court personnel who have not had domestic violence training may exhibit an anti-victim bias because they simply do not understand why a victim would choose to remain in a violent relationship.

Drug court judges, though familiar with ways to monitor defendant progress, must also learn to incorporate victim advocates into their court process and ensure that victims themselves are informed about the defendant’s compliance with court-ordered programs. In addition, they must state clearly that their support for a defendant’s recovery from substance abuse does not excuse the violence. And they must coordinate with substance abuse treatment programs to make certain that the programs do not use procedures such as requiring spousal involvement in a treatment plan that could endanger a domestic violence victim. Achieving an appropriate courtroom atmosphere and making victim safety a priority requires that a drug court judge handling cases that include domestic violence be highly knowledgeable about the dynamics of intimate partner violence. The drug court judge must also know the effect that substance abuse and treatment for substance abuse can have on those dynamics. Few drug court judges

are currently trained to identify and deal with these complexities.

Conversely, domestic violence judges unfamiliar with addiction and substance abuse treatment research may have difficulty in effectively addressing the substance abuse of a domestic violence defendant. Relapse, though unfortunate, is generally considered a common element in the process of recovery from substance abuse. Judges trained to adopt zero-tolerance policies in regard to violence may find it difficult to adjust their expectations for substance abuse and to deal constructively with relapse. Substance abuse treatment relies on rewarding clients for periods of successful sobriety, while domestic violence defendants are expected to refrain from violence completely and are not rewarded for doing so. As discussed above, few judges are familiar with the dynamics of both domestic violence and substance abuse and trained to address their co-occurrence effectively.

Additionally, staff from both substance abuse treatment providers and batterers' intervention programs require effective cross-training to deal with the co-occurrence of substance abuse and domestic violence. At present this cross-training is rare or minimal when it does occur. Alyce LaViolette, who has worked at a battered-women's shelter and founded a batterers' intervention program in California, noted that only 4 hours of the 40-hour training mandated for staff of court-approved batterers' programs in California are devoted to substance abuse.

LaViolette cited a recent development: that many substance abuse programs are beginning to provide batterers' intervention services to make up for the loss of some traditional funding sources. She noted that staff at many of these programs lack adequate training in domestic violence dynamics, and some are even purveying outdated and inaccurate information, including "the old party line" that "if the substance abuse dries up, the battering dries up," and that "[t]he woman, the co-dependent, is sicker than the alcoholic." Inadequate training can directly place domestic violence victims at risk. William Downs observed that effect in a program he studied, involv-

ing domestic violence victims participating in substance abuse treatment. The providers "inadvertently were doing practices that might prove dangerous for women. For example, they were including abusive partners in the treatment plans for the women, and they didn't know any better." Victims can also be placed at risk when the abuser is in substance abuse treatment and the program presses the victim partner to participate.

Judge Susan Finlay pointed out that other key partners in the justice system also must be educated about both issues. In her jurisdiction in San Diego County, where the probation department oversees service providers, probation staff may not assign different interventions to domestic violence offenders who have substance abuse problems. Larry Bennett agreed that probation officers can play a crucial role, calling them "the linchpins of batterers' programs," because they often are responsible for placing defendants in programs and monitoring program operations. Therefore, training of these officers as case managers who understand both substance abuse and domestic violence is critical. Nevertheless, this kind of training is not common in all jurisdictions.

Patti Bland remained optimistic that ongoing comprehensive training and cross-training can help to develop service interventions that ensure both safety and sobriety. William Downs agreed that providers had good intentions and that on-the-ground cross-training could greatly ameliorate the problems created by providers' lack of knowledge: "[W]e have had domestic violence advocates from the shelters going into substance abuse treatment programs and training and educating providers in regard to domestic violence. We've had folks from the substance abuse treatment programs educating the advocates in the shelters in regard to substance abuse. . . . And so we had quite a bit of cross-training, and because we had the shelters training the substance abuse treatment providers and vice versa, instead of us as university 'experts' coming in and doing it, that resulted in some really strong collaboration between the two different treatment programs; and they've continued." Bland points out that training programs

have the additional benefit of enhancing collaboration among diverse agencies and programs: “[T]he goal of this training is not merely to share information but to create a climate where relationships can develop.”

The lack of education and cross-training of court and service provider personnel in issues of substance abuse and domestic violence remains a glaring gap in the current system’s approach to dealing with co-occurrence, yet it can be resolved relatively easily. Both the justice system and service professionals themselves should work to develop training involving experts and practitioners in each area. This straightforward action could have a significant positive impact in the effectiveness of interventions with defendants and could minimize practices that place victims at risk.

PROMISING PRACTICES IN ADDRESSING THE CO-OCCURRENCE OF DOMESTIC VIOLENCE AND SUBSTANCE ABUSE

Roundtable participants generally agreed that both substance abuse and domestic violence must be addressed in cases where they co-occur. However, experts are still grappling with the best strategy for treatment and service intervention in these cases.

INTEGRATED VS. COORDINATED APPROACH

A primary issue is which would be more effective—a single program that integrates both substance abuse treatment and batterers’ intervention or two coordinated yet independent programs? The integrated approach has the benefit of requiring a defendant to attend only one program to address the two issues. This alleviates the concern that asking a defendant to participate in multiple programs may be difficult financially, may take a great deal of time, and may affect his or her ability to find and keep a job, an important element in a person’s ability to function well in the community. An integrated approach also ensures that program staff know the defendant’s sta-

tus in both areas and can coordinate interventions as well as appropriate responses.

But reliance on a single program to provide integrated services, while promising, also raises some concerns. Larry Bennett pointed out that a program of integrated services “reduces accountability,” because, first, it is difficult to ensure that the program staff have appropriate expertise in both fields and, second, assessments and placement into dual services are necessary for particular defendants: “[U]nless you’ve got an in-house domestic violence advocate, someone who knows how to hold people accountable for the kind of practice they’re engaging in, I think it puts victims at risk to have integrated agencies, and I don’t think we need to do it.”

This accountability is of particular concern because the development of batterers’ intervention programs is not well regulated in many jurisdictions, making it relatively easy for practitioners without necessary training to enter the field. Bennett commented that some substance abuse programs have “suddenly discovered a growth industry that is exempt from managed care in batterers’ programs, and many of these proprietary substance abuse agencies are beginning to want to do batterers’ intervention and even working with victims, and they’re selling it under the guise of integrated services.”

The alternative to an integrated program is a coordinated approach in which the two types of programs remain separate but communicate and coordinate their interventions. Judge Iles agreed that multiple programs were better because the court would not have to rely on a single program to provide the services as well as provide information to the court: “I want more than one person seeing this person . . . because what happens if you send them to a bad program?” Judge Finlay also observed that there could be “a conflict of interest if the same provider is recommending additional treatment. . . . [I]t then could be argued, ‘Well, sure they’re going to say that he needs substance abuse treatment. They’re going to make more money.’ So there’s a basic conflict.”

With a coordinated approach, substance abuse and batterers’ intervention professionals are cross-

trained, so that each is knowledgeable about the other field. Larry Bennett noted that the coordination can go beyond cross-training to actual staff sharing. In Illinois, he noted, “[w]e have shelter people going into the substance abuse treatment agencies ...and likewise substance abuse people going into the DV [domestic violence] agencies, actually putting in four to six hours a week doing various things, including assessments.” William Downs also favored the coordinated approach, which is the structure of the program he has studied in Iowa: “We don’t have substance abuse treatment programs by themselves providing domestic violence services either to men or to women.... What we have is people from the shelter going into the substance abuse treatment program and vice versa, and that would be the model that I would also support when it comes to providing services to batterers who have substance abuse problems.” This approach permits each of the two types of programs, which involve contrasting approaches and philosophies, to continue in the practice specific to its area, while also improving both programs’ awareness of the co-occurrence of these issues.

Some roundtable participants were optimistic that this coordination could be achieved because, despite important differences in substance abuse treatment and batterers’ intervention programs, the programs do share certain elements in common. Larry Bennett remarked, “We are not all that good at treating substance abuse. We are good at treating substance abuse in men who are motivated to change and in helping them to become motivated. In that sense it’s like domestic violence, which is widely assumed to have a social causation, but intervention is not societal (we can’t change patriarchy), but behavioral. Social learning, motivation, and power are all key factors in substance abuse and domestic violence. What works in substance abuse [treatment] probably works in domestic violence [intervention]: increasing motivation through support and consequences, increasing social support, helping the victims of the problem through group-based intervention.” Judge Finlay added that personal accountability, so critical

in domestic violence interventions, is also important in treating substance abuse.

CONCURRENT VS. SEQUENTIAL APPROACHES

If the courts were to adopt a coordinated approach to addressing substance abuse and domestic violence, they would also have to determine the best method of mandating services. They could order substance abuse treatment and batterers’ intervention either concurrently or sequentially. While little support is evident for requiring batterers’ intervention before substance abuse treatment, experts dispute whether it is more appropriate to mandate both interventions concurrently or to require drug treatment before entry into a batterers’ intervention program.

Proponents of the approach that requires substance abuse treatment before batterers’ intervention emphasize that it is futile to mandate participation in a batterers’ program when the defendant is not sober. For a batterer to have even a possibility of changing his or her behavior, he or she must not be currently abusing drugs or alcohol. But this approach raises concerns about the length of time it may take for the defendant to complete both interventions. In particular, some experts are troubled that substance abuse treatment could take a substantial period of time—a period during which the defendant will *not* be held accountable for the domestic violence. This gap could unnecessarily put the victim at greater risk. Larry Bennett pointed out that, while proponents of sequencing substance abuse treatment before batterers’ intervention assume that sobriety is necessary to absorb batterers’ intervention, “[n]ot as much attention is paid to the importance of nonviolence as a possible precondition for sobriety. Safety and sobriety are intimately linked.”

An important factor in the choice between mandating program participation sequentially or concurrently is the length of time that the court has authority over a defendant. In many jurisdictions, the court may order programs for a limited period. Only with concurrent treatment would a judge be able to mandate both substance abuse treatment and

batterers' intervention. Emily Sack pointed out that sequential services would be difficult to mandate in jurisdictions such as New York, given both the limits on sentencing and the legal culture there: "We really don't have the luxury in New York to have jurisdiction over a defendant for a year of residential substance abuse treatment and then another year of DV [intervention]." And, even if that were legally possible, it is unlikely to be politically feasible, owing to the culture in criminal court and the expectations of the defense bar: "[Y]ou would not be able to have somebody... with a low-level misdemeanor conviction under the jurisdiction of the court for years like that. So I think [this would be true] in vast areas of the country, [and] obviously misdemeanors are a lot greater [in] number than felonies. We have to think of models that could address some of these issues, but in a shorter time frame." Larry Bennett concurred that time period was an issue in his Illinois jurisdiction: "We have a maximum of two years that the courts can be involved with these guys, and generally it takes sometimes four to six months to get a guy into a batterers' program."

In contrast, Judge Finlay noted that in California the court "can put people on probation for misdemeanors, domestic violence for three years, and for substance abuse five, and certain child abuse offenses five years. So we do have time to do a lot of things, and our experience has been it's pointless to send them to the domestic violence program until they get their substance abuse issues in hand and that can vary." She noted that in her court she is able to place "a really chronic offender who cannot function... into intensive outpatient or residential treatment for alcohol or substance abuse... and we just wait until they're sober and stable enough to take the 52-week [batterers'] program."

A third alternative is to mandate an initial brief period for alcohol or drug detoxification, if necessary. A defendant could then enter batterers' intervention while continuing treatment for substance abuse. This has the advantage of ensuring that the defendant is not actively abusing drugs when entering a batterers' program, while also making certain that his or her battering behavior is addressed quickly. Judge Iles

agreed with this approach, observing that defendants who also have mental health issues might be self-medicating with illegal drugs. These defendants need an initial period to get on the appropriate medication. After initial treatment, Judge Iles mandates concurrent but separate programs to treat the substance abuse and domestic violence.

If the courts plan to seriously address the co-occurrence of substance abuse and domestic violence, these treatment issues must be explored and resolved, with the assistance of experts and service providers in both areas. At present, little data are available to confirm the effectiveness of various approaches—research that the justice system needs to make an informed decision on the best practice in this area.

OPPORTUNITIES FOR THE SPECIALIZED COURT MODEL

Policymakers and practitioners in the justice system need to explore not only best service approaches but also the best criminal justice procedures for addressing the co-occurrence of substance abuse and domestic violence. The differences in the justice system's approaches to these issues create a significant challenge. Still, the common elements and structures in specialized problem-solving courts hold promise for meeting that challenge.

Specialized courts feature a dedicated, experienced court and partner staff who focus on a specific caseload. This collaboration promotes consistency while it provides incentives for developing efficient procedures that incorporate promising practices in the field. These elements create a structure whereby the system could develop methods of addressing substance abuse and domestic violence in a responsible, effective way. Judge Iles asserted that "all domestic violence courts should be dedicated courts, they should be long-term assignments, they should be heavily enriched with staff..." She emphasized that the resources, staff expertise, and focus of a specialized court would not only enhance services to defendants but also improve the safety of victims and increase the overall effectiveness of the justice system.

Specialized courts are designed to provide ongoing, intensive monitoring of defendants. This includes several elements: frequent court appearances by the defendant, coordination with community-based services, consistent protocols for reporting and information sharing between the court and programs, and established sanctioning schemes for noncompliance. These features are critical in any effort to address issues of substance abuse and domestic violence in the defendant population. For example, Larry Bennett pointed out that victim safety requires domestic violence perpetrators to be assessed, not only when they enter a batterers' program but also on an ongoing basis: "Ninety percent of the recidivism in batterer programs is caused by 25 percent of the men. These men can, for the most part, be identified, but not by paper and pencil or psychological tests. The best predictors are found during the program: drunkenness and victim fear. Assessment must be ongoing throughout the program. Batterers' intervention program staff is not usually prepared to do this. DV [domestic violence] court would help magnificently in this area. Once a month, everyone gets reviewed in court." Alyce LaViolette agreed: "[I]f you look at assessment, it's got to be ongoing, and the only people that are really in that position are the courts working in collaboration with batterers' treatment."

Problem-solving courts have been created to address core problems in the defendant population. These courts could be an excellent starting point for experimental programs that comprehensively address the coexistence of substance abuse and domestic violence in defendants.

CONCLUSION

The criminal justice system and the service providers with which it partners can no longer disregard the co-occurrence of substance abuse and domestic violence in their defendant populations. The co-occurrence is substantial, and failure to address one issue diminishes the system's ability to successfully address the other. Further, substance abuse is a marker for more severe and ongoing domestic violence, to the extent that failure to confront addiction in domestic violence

perpetrators, or to address domestic violence in substance abusers, places victims at greater risk.

Consensus exists for the desirability of a comprehensive assessment of defendants charged with substance abuse or domestic violence so as to identify the co-occurrence, if any, of these problems at an early stage in the criminal justice process. Court personnel and community-based programs working with these defendants need extensive cross-training so that they can identify both issues, develop procedures for addressing them, and incorporate victim safety needs into any program protocols. While assessment procedures and training programs require resources, nevertheless both should be priorities for the justice system, and both will improve by addressing defendants' long-term problems.

Practitioners and experts alike agree that the system must move beyond mere identification of the problem to develop appropriate criminal justice and service intervention approaches to the co-occurrence of substance abuse and domestic violence. It is clear, though, that approaches to substance abuse and domestic violence, whether in the court system or by service providers, are quite distinct and may indeed prove incompatible. These distinctions rest on strong philosophical and practical foundations and cannot be easily dismissed. Any serious examination of a coordinated approach to these issues must recognize the potential costs that such an effort may create and must explore whether these costs are worth the benefits of such an approach.

Before we can expect judges to effectively handle cases involving both substance abuse and domestic violence, policymakers and practitioners need to undertake more comprehensive research to determine which approaches actually prove effective in addressing substance abuse and domestic violence and which court procedures can produce results without jeopardizing victim safety or ignoring fundamental theories of addiction and domestic violence. Specialized problem-solving courts that already work closely with community-based agencies have perhaps the greatest potential to develop the appropriate coordination of substance abuse and domestic

violence programs and to devise new criminal justice approaches to the co-occurrence of these issues.

While best practices in this field are still being developed, the justice system and its community-based partners can take several preliminary steps that would increase their efficacy in addressing both drug abuse and domestic violence. In addition to defendant assessments and cross-training, courts and service providers can strengthen referral networks among substance abuse treatment providers, batterers' intervention programs, and advocacy organizations for domestic violence victims. Providers in both the chemical dependency and domestic violence fields can develop procedures designed to support safety and sobriety among victims and victimizers alike. Batterers, even when participating in substance abuse treatment programs, cannot be relieved of accountability for their abusive behavior. Similarly, substance abuse programs can screen for domestic violence and can refer batterers in their population to a suitable intervention program.

The cross-training and referral network can also work to strengthen interpersonal relationships, which are critical to any effective response to the co-occurrence of substance abuse and domestic violence. As Patti Bland expressed it,

Effective intervention requires systemwide recognition of individual limitations and a desire to join forces to provide a coordinated community response to end problems stemming from both domestic violence and addiction. To achieve these ends, providers in both the chemical dependency and domestic violence fields can begin acknowledging each other's good intentions and strive to provide services designed to support both safety and sobriety options for people seeking to achieve both. This may enhance an individual's chances for achieving both restraint from violence and sobriety while improving safety and health outcomes in our communities.

The court system can promote this coordination by imposing certain requirements on programs used by the court, as well as by harnessing the judicial authority to encourage program cooperation. In the best possible outcome, confronting the co-occurrence of these

problems will have a profoundly beneficial impact on the success of our justice system's efforts to address the complex problems of defendants, provide safety to their victims, and reduce violence and drug abuse in our communities.

NOTES

1. All quotes in the article are from roundtable participants in the teleconference held on January 13, 2004. Participants are listed in the appendix following the article.
2. Carolyn Easton et al., *Motivation to Change Substance Use Among Offenders of Domestic Violence*, 19 J. SUBSTANCE ABUSE TREATMENT 1 (2000); see also D. Brookoff et al., *Characteristics of Participants in Domestic Violence Assessment at the Scene of Domestic Violence Assault*, 277 JAMA 1369, 1371 (1997).
3. Brookoff, *supra* note 2, at 1369, 1371.
4. Edward Gondolf, *Characteristics of Court-Mandated Batterers in Four Cities: Diversity and Dichotomies*, 5 VIOLENCE AGAINST WOMEN 1277 (1999); K. Leonard & T. Jacob, *Alcohol, Alcoholism, and Family Violence*, in HANDBOOK OF FAMILY VIOLENCE 383 (Vincent Van Hasselt et al. eds., Springer 1987).
5. P. Rivara et al., *Alcohol and Illicit Drug Abuse and the Risk of Violent Death in the Home*, 278 JAMA 569 (Aug. 20, 1997).
6. Larry Bennett et al., *Domestic Abuse by Male Alcohol and Drug Addicts*, 9 VIOLENCE & VICTIMS 359 (1994).
7. LUPITA PATTERSON, WASH. STATE COALITION AGAINST DOMESTIC VIOLENCE, MODEL PROTOCOL FOR WORKING WITH BATTERED WOMEN IMPACTED BY SUBSTANCE ABUSE 25 (Feb. 2003), available at www.wscadv.org/Resources/protocol_substance_abuse.pdf.
8. T. O'Farrell & C. Murphy, *Marital Violence Before and After Alcoholism Treatment*, 63 J. CONSULTING & CLINICAL PSYCHOL. 256 (1995); Easton et al., *supra* note 2, at 1–5.
9. J.J. Collins et al., *Issues in the Linkage of Alcohol and Domestic Violence Services*, in 13 RECENT DEVELOPMENTS IN ALCOHOLISM: ALCOHOL AND VIOLENCE 387 (Marc Galanter ed., Plenum Press 1997).
10. OFFICE OF JUSTICE PROGRAMS, U.S. DEP'T OF JUSTICE, NATIONAL SYMPOSIUM ON ALCOHOL ABUSE AND

CRIME: RECOMMENDATIONS TO THE OFFICE OF JUSTICE PROGRAMS (Apr. 1998).

11. *Id.*

12. GREG BERMAN & JOHN FEINBLATT, CTR. FOR COURT INNOVATION, PROBLEM SOLVING COURTS: A BRIEF PRIMER 6 (2001).

13. Betsy Tsai, *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*, 68 FORDHAM L. REV. 1285 (2000).

14. BERMAN & FEINBLATT, *supra* note 12, at 6.

15. While numerous state and national drug court evaluations report a variety of positive outcomes, research on domestic violence courts is less conclusive with success relying on anecdotal information. *See, e.g.*, Julia Weber, *Domestic Violence Courts: Components and Considerations*, 2 J. CENTER FOR FAM. CHILD. & CTS. 32 (2000). In addition, the short time that most domestic violence courts have been in operation, as well as several changes in the criminal justice system that occurred simultaneously, has made it difficult to obtain or interpret long-term recidivism data or other impacts of the specialized courts. Many studies have tended to focus instead on a process evaluation of the implementation of the court and some qualitative outcomes. *See, e.g.*, RANDALL KLEINHESSELINK & CLAYTON MOSHER, MINN. CTR. ON VIOLENCE & ABUSE, A PROCESS EVALUATION OF THE CLARK COUNTY DOMESTIC VIOLENCE COURT (Mar. 2003); LYNN S. LEVEY ET AL., NAT'L CTR. FOR STATE COURTS, LESSONS LEARNED IN IMPLEMENTING AN INTEGRATED DOMESTIC VIOLENCE COURT: THE DISTRICT OF COLUMBIA EXPERIENCE (2001). Many courts have documented some promising changes, such as a dramatic increase in the proportion of victims accessing services, improved tracking of defendants both before and after disposition, and an increase in issuance of protection orders. Yet there remains a great need for outcome evaluations that can provide more definitive information on such traditional measures of success as recidivism.

16. The first drug court started in Dade County, Florida, in 1989. Domestic violence courts are a newer phenomenon within innovative courts yet are deeply influenced by the domestic violence shelter movement of the early 1970s.

17. Problem-solving courts have developed in a number of areas and include community courts and mental health courts. This article focuses on two such court models: drug courts and domestic violence courts.

18. DRUG COURTS PROGRAM OFFICE, U.S. DEP'T OF JUSTICE, DEFINING DRUG COURTS: THE KEY COMPONENTS 5 (Jan. 1997).

19. *See id.*, *passim*.

20. *Id.*

21. *Id.*

22. OJP DRUG COURT CLEARINGHOUSE, AM. UNIV., DRUG COURT ACTIVITY UPDATE (Jan. 2005), *available at* <http://spa.american.edu/justice/resources/2004factsheet.pdf>.

23. For a more comprehensive history of the development of domestic violence courts and its relation to the battered-women's movement, see Emily J. Sack, *Toward an Understanding of Domestic Violence Courts: Origins, Practice, and Potential* (2004) (unpublished manuscript on file with authors).

24. *See, e.g.*, Weber, *supra* note 15, at 26.

25. TASK FORCE ON LOCAL CRIMINAL JUSTICE RESPONSE TO DOMESTIC VIOLENCE, OFFICE OF THE ATTORNEY GEN. OF CAL., KEEPING THE PROMISE: VICTIM SAFETY AND BATTERER ACCOUNTABILITY: REPORT TO THE CALIFORNIA ATTORNEY GENERAL FROM THE TASK FORCE ON LOCAL CRIMINAL JUSTICE RESPONSE TO DOMESTIC VIOLENCE (June 2005).

26. *See* EMILY SACK, FAMILY VIOLENCE PREVENTION FUND & STATE JUSTICE INST., CREATING A DOMESTIC VIOLENCE COURT: GUIDELINES AND BEST PRACTICES (May 2002).

27. ROBYN MAZUR & LIBERTY ALDRICH, CTR. FOR COURT INNOVATION, WHAT MAKES A DOMESTIC VIOLENCE COURT WORK 4–5 (2002).

28. Weber, *supra* note 15, at 23.

29. MAZUR & ALDRICH, *supra* note 27.

30. Judith S. Kaye & Susan K. Knipps, *Judicial Responses to Domestic Violence: The Case for a Problem Solving Approach*, 27 W. ST. U. L. REV. 1, 5 (1999–2000).

31. BERMAN & FEINBLATT, *supra* note 12, at 8.

32. The authors acknowledge that a decade and a half have passed since the first drug court in 1989. Many drug courts may now be “funded out” of the option to access federal money and have institutionalized their courts through state and other funding. This enables the courts to admit into their programs potential clients who may not be allowed admittance under federal guidelines.

33. Kaye & Knipps, *supra* note 30, at 2.

APPENDIX ROUNDTABLE PARTICIPANTS

JUDGE DEBORAH B. ANDREWS oversees a misdemeanor domestic violence calendar in the Superior Court of Los Angeles County. She also served as a drug court judge in Long Beach for three years.

LARRY BENNETT has been a researcher at the University of Illinois at Chicago for more than 15 years. His work focuses on the characteristics of batterers, outcome evaluations on the effectiveness of batterers' programs, and the intersection of substance abuse and battering.

PATTI BLAND is the statewide training coordinator for the Alaska Network on Domestic Violence and Sexual Assault in Juneau.

WILLIAM DOWNS is a professor at the University of Northern Iowa. For the past seven years he has been working on the Integrative Services Project, which received a National Institute of Justice research grant to study the linkage between women in substance abuse treatment programs and domestic violence victimization.

JUDGE SUSAN FINLAY (RET.) presided over a domestic violence court in the Superior Court of San Diego County. She formerly served as an adult and juvenile drug court judge. She has provided training on drug courts for the National Drug Court Institute and the Department of Justice.

JUDGE MARY ANN GRILLI is a family court judge in the Superior Court of Santa Clara County. She presides over a unified domestic violence family court calendar, which includes a special link to the criminal court.

JUDGE PAMELA LEE ILES serves in the Superior Court of Orange County. She presides over a vertical criminal calendar, which includes domestic violence, elder abuse, and a family violence court. She is also starting a teen dating violence program with the local board of education.

ALYCE LAVIOLETTE worked at a battered-women's shelter from 1978 to 1984. She founded Alternatives to Violence, a program for batterers that she ran within the shelter. She conducts national and international training programs and coauthored a parenting curriculum on domestic violence.

JUDGE JEAN PFEIFFER LEONARD became a judge in 1993 for the Superior Court of Riverside County, where she started a family-domestic relations drug court. She currently oversees a juvenile delinquency drug court.

EMILY SACK is a professor at Roger Williams University School of Law in Rhode Island. She teaches domestic violence law as well as criminal and family law and was formerly a deputy director of the Center for Court Innovation in New York.

KATE YAVENDITTI is a senior staff attorney at the San Diego Volunteer Lawyer Program and works with domestic violence victims in civil court. She is a member of the California Judicial Council's Family and Juvenile Law Advisory Committee.